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WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

Preparatory Committee
First session
Geneva, 1-5 May 2000

Item 6 of the provisional agenda

PREPARATORY MEETINGS AND ACTIVITIES AT THE INTERNATIONAL REGIONAL AND NATIONAL LEVELS

Report of the Expert Seminar on Racism, Refugees and Multi-Ethnic States

Note by the Secretary-General

The Secretary-General has the honour to transmit to the Preparatory Committee the report on the Expert Seminar on Racism, Refugees and Multi-Ethnic States, held in Geneva from 6 to 8 December 1999.

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ANNEX

Report on the Expert Seminar on Racism, Refugees and Multi-Ethnic States
(Geneva, 6-8 December 1999)

Chairperson-Rapporteur: Mr. Asbjørn Eide

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Introduction

1. In the context of the Revised Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (General Assembly resolution 49/146, annex, para. 7 (h)). The Assembly requested the Secretary-General to organize a "seminar on flows of refugees resulting from ethnic conflicts or political restructuring of multi-ethnic societies in socio-economic transition and their link to racism in the host country". In paragraph 65 (b) of its resolution 1999/78, the Commission on Human Rights requested the High Commissioner to encourage other activities, particularly seminars forming part of the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and to submit the recommendations of these seminars to the Preparatory Committee.

2. In accordance with the above, the Expert Seminar on Racism, Refugees and Multi-Ethnic States was held from 6 to 8 December 1999 in Geneva.

3. The movement of refugees and forcibly displaced persons has become a dramatic sign of our times. In the last few years, the number of such persons has reached an unprecedented magnitude. The Office of the United Nations High Commissioner for Refugees (UNHCR) has estimated that some 50 million persons are currently victims of forced displacement. Of the approximately 22 million persons being assisted by UNHCR, only about 13 million are refugees in the conventional sense. UNHCR assists a variety of different groups: internally displaced and war-affected populations; asylum-seekers; stateless persons and others whose nationality is disputed; as well as "returnees" who are refugees and internally displaced persons who have been able to go back to their homes, but who still require some support from the international community.

4. The international community has acknowledged that the refugee crisis is a human rights tragedy which requires urgent attention. Many refugees are forced to leave their country or community of origin because of well-founded fear of persecution for reasons of their race, ethnicity or nationality. Ethnic conflicts today are a major source of mass exoduses, whether these occur within a State or across borders. States under pressure from their own populations are showing increasing reluctance to host refugees. Faced with xenophobia and various forms of discrimination, refugees are often caught in a vulnerable situation both at home and in the host country.

5. The purpose of the Expert Seminar on Racism, Refugees and Multi-Ethnic States was to examine racism and ethnic conflicts as among the root causes of refugee crises; to find ways and means to stop the expansion of racism and ethnic conflicts in order to prevent refugee flows; to examine how better protection of vulnerable groups within the States concerned might be ensured; and to protect the rights of refugees within host countries. The seminar was attended by five invited experts (Professor Pita Agbese, Mr. Ivan Garvalov, Mr. Peter Nobel, Mr. Kallu Kalumiya and Professor Mario Jorge Yutzis) who had prepared background papers on the respective agenda items (see appendix I); several other experts invited in their personal capacity; observers for States Members of the United Nations; representatives of United Nations bodies and specialized agencies; and representatives intergovernmental, non-governmental and other organizations. The list of participants is presented in appendix II to this report.

6. Following the presentation of the background papers prepared by the five experts and the discussion of the various issues of racism, refugees and multi-ethnic States raised by the papers, the participants presented and considered numerous observations and suggestions that had been raised during the course of the seminar.

I. OPENING OF THE SEMINAR

A. Statement by the High Commissioner for Human Rights

7. The United Nations High Commissioner for Human Rights opened the seminar on 6 December 1999. In her statement, she noted that the seminar was appropriately taking place during the week in which Human Rights Day was commemorated. The High Commissioner stated that violations of human rights were nowhere more dramatically illustrated than by mass exoduses, whether they occurred across borders or within States, and that the movement of refugees and forcibly displaced persons had become a tragic feature of modern times. The refugee crisis was a human rights tragedy that must be addressed urgently. Refugees and internally displaced persons left their country or community of origin because of a well-founded fear of persecution that might be based on their being targeted on account of their race, ethnicity or nationality. Racism and ethnic conflicts were major causes of forced displacement and ethnic tensions were often exploited, deliberately fostered and exacerbated to further political objectives.

8. At their worst, racism and ethnic tensions could result in genocide. Brutal and systematic violations of human rights demanded quick and decisive action with adequate support. Although the primary responsibility for taking such action remained with the Government concerned, where a Government was unable or unwilling to take such action, the question arose as to whether intervention by the international community would be necessary and justified.

9. Since its creation, the United Nations had struggled to find measures to combat racial discrimination and ethnic violence. It was a multifaceted, complex issue that continued to present enormous challenges to the international community. Progress had been made. As a new century began the international community needed to pay more attention to the effectiveness of early-warning systems and urgent actions as possible measures in combating racism, racial discrimination, xenophobia and related intolerance. It was important that the international community focus on preventive measures. The root causes of the racism and ethnic conflicts which triggered refugee crises must be addressed. These problems not only divided the population in the home country, but also refugees in the host country. Racism and ethnic tensions complicated assistance to refugees and forcibly displaced persons throughout a crisis and, in addition, could preclude their safe return and reintegration.

10. The High Commissioner reminded the seminar that combating racism, racial discrimination, xenophobia and related intolerance remained a collective responsibility. A fundamental first step was for States and the international community as a whole to acknowledge the reality of multi-racial and multi-ethnic States. Only then could the international community endeavour to protect and promote all human rights for all.

11. The High Commissioner acknowledged that preventing, managing and resolving refugee crises rooted in racism and ethnic tensions raised many daunting challenges. However, the seminar had been organized to contribute to a better understanding of these issues, and to facilitate the adoption and implementation of effective solutions. These solutions must focus on practical measures of prevention, education and legislation, as well as effective remedies for the victims of acts of racism, racial discrimination, xenophobia and related intolerance.

12. The High Commissioner extended her thanks to the participants, and concluded by stating that she looked forward to the suggestions and recommendations to emanate from the seminar.

B. Election of the Chairperson-Rapporteur

13. Mr. Asbjørn Eide, member of the Sub-Commission on the Promotion and Protection of Human Rights, was elected Chairperson-Rapporteur.

C. Adoption of the agenda

14. The observer for Turkey stated that his country was not opposed it, but suggested that the agenda should have included an item on the situation of migrant workers in multi-ethnic States.

15. The provisional agenda was adopted without a vote (see appendix I).

II. TOPIC ONE: RACISM AND ETHNIC CONFLICTS AS A ROOT CAUSE OF REFUGEE FLOWS, AS WELL AS THE CAUSES OF THESE TENSIONS

Presentation

16. Professor Pita Agbese presented his paper, entitled "Racism and ethnic conflicts as root cause of refugee flows" (HR/GVA/DR/SEM/1999/BP.1). He stated that racial and ethnicity, like other socio-political identities, were socially constructed within the context of power struggles. Once racial characteristics had been made social relations, access to power, wealth and political participation were then conditioned on those categorizations. Racism need not lead to inequality; the distribution of resources and differential access were rather the key issues. Under institutionalized racism, institutions, including the State itself, political parties, religious organizations, media and business, shaped race relations and racial attitudes.

17. Racial discrimination and ethnic practices by the State such as bans on the use of languages, immigration policies, and State policies of racial and ethnic classification (such as in South Africa under apartheid, or in Rwanda) often instigated the conflicts that generated refugees. These practices were often institutionalized in the organs, policies and programmes of the State. Ethnic and racial factors alone did not trigger the socio-political crises that created refugee flows; however, crises in which ethnic or racial factors were implicated tended to accentuate violence and often led to the displacement of large numbers of people.

18. Ethnic or racial factors were often contingent factors which, when combined with racism and ethnic discrimination, caused political conflicts. Professor Agbese gave the following examples: economic crises such as inflation, unemployment, indebtedness, bankruptcy and high interest rates; political crises such as succession, new political coalitions and the collapse of dictatorship; absence of the rule of law; and absence of democratic platforms. He also emphasized that the concentration of economic misery in a particular group was not conducive to peace and harmony and that race or ethnicity should not be used as a determinant of a person's economic well-being. Also, the practice of ethnic segmentation of occupation was not conducive to harmonious inter-group relations. Society must strive to provide equal opportunities for all its citizens.

19. Thus, racism as the root cause of refugee flows could be manifested in many forms: (a) the State may attack its own citizens on the basis of racial differences (as in Nazi Germany and under the former apartheid regime); (b) attacks directed at citizens of other States in defence of racial privileges; (c) attacks directed against people by a foreign State in furtherance of colonial rule; and (d) refugee flows within the context of resistance against colonial rule. Similarly, ethnic conflicts could cause refugee flows through: (a) attacks aimed at groups in defence of ethnic privileges; (b) reprisal attacks; (c) attacks aimed at "purification" or ethnic cleansing, such as in Bosnia, Kosovo and the Sudan; and (d) inter-communal conflicts (between two or more ethnic groups) resulting in internal displacement. Professor Agbese presented a number of country cases to illustrate his arguments on race and ethnic conflicts as the root causes of refugee flows.

Discussion

20. A participant argued that certain examples presented by Professor Agbese did not properly reflect the situation in Angola. He presented his own historical analysis, arguing that the cause of conflict in that country was not ethnically based but lay in its colonial history and the struggle against the South African regime.

21. One participant cautioned that there was a distinction between ethnic conflict and racism which had not been acknowledged by the expert. In response, Professor Agbese maintained that racism was the issue and that even at the level of the individual, there must be a social context that created a basis on which to practise racism.

22. The Chairperson-Rapporteur noted that the discussion had raised two key issues: first, what was the relationship between internal and external factors in ethnic conflicts; and second, what could a unifying language in a multi-ethnic society?

23. Another participant reminded the seminar that poverty caused conflict which in turn caused internal and external displacement. He raised the issue of intervening factors and advised caution when addressing the root causes of racism, for the causes that begin an ethnic or racial conflict may not be the same dynamics that perpetuate it. The participant suggested a different use of terminology: "ethnicized conflict" rather than ethnic conflict, because what was relevant was the politicization of these differences.

24. An expert pointed out that the main characteristic of a racial or ethnic conflict was the systematic nature of the discrimination; this element could therefore not be addressed in isolation.

25. An expert noted that the human rights component of refugee issues was most significant in protection during the post-return period, and that as soon as refugee flows occurred, national institutions played a critical role.

26. Another expert stated that the seminar should consider the issues of racism, refugees and multi-ethnic States on three levels: the first level was how best to combat racism; the second level was the issue of conflict resolution and early-warning and prevention systems; and the third level should be humanitarian aid associated with refugee crises and the need for the United Nations to a multi-develop pronged strategy and conflict management.

27. A participant stated that the role of intergovernmental organizations and non-governmental organizations in conflict prevention and resolution must be studied and determined by the international community. The participant also stated that the United Nations should continue its work in determining "fundamental standards of humanity".

28. An expert disagreed with Professor Agbese's point about the contingency of economic factors and stressed the relevance of economic issues as root causes of racial discrimination.

29. The seminar was reminded that "casteism" was a particular type of discrimination that required the attention of Governments and the international community.

30. An expert stated that ideological hegemony constituted a root cause of racism and that it was nurtured by culture, not nature, and that it must be addressed from a development perspective. The Chairperson noted that in "developmental racism" development could serve to expand or extend racist practices.

31. It was noted that as the international community approached the fiftieth anniversary of the Convention relating to the Status of Refugees, some States had yet to ratify the Convention and that some of those who had ratified it did not respect its principles and provisions.

32. It was noted by an expert that international humanitarian law required greater application in racial or ethnic conflicts and refugee flows because it addressed some areas that refugee law and human rights law did not, such being binding upon non-State actors, the distinction between military and civilian objectives, and the express prohibition on forcible displacement.

33. The seminar was reminded of the promising work of the United Nations on early-warning indicators which was a template of 40 characteristics exhibited in pre-conflict situations. This work had not yet reached the implementation stage; however, it should be continued.

III. TOPIC TWO: MEASURES TO ELIMINATE RACIAL DISCRIMINATION AND ETHNIC VIOLENCE

Presentation

34. The paper entitled "Measures to eliminate racial discrimination and ethnic violence: early warning systems and urgent actions" (HR/GVA/DR/SEM/1999/BP.2) was presented by Mr. Ivan Garvalov. The international community must have no doubts that racism was still around, said Mr. Garvalov. In recent years, the international community had witnessed a sharp increase in both conventional and sophisticated forms of racial discrimination, ethnic hatred and violence. The General Assembly and the United Nations had consistently reminded the international community that all forms of racism and racial discrimination, particularly in their institutionalized form, were among the most serious violations of human rights. The Committee on the Elimination of Racial Discrimination had warned about these alarming trends and had confirmed this reality on numerous occasions through its work. Ethnic conflicts of more recent times were of an overtly political character. This made them not only more dangerous, but also more difficult to address, and they defied accommodating solutions.

35. He pointed out that no State was immune from the evils of racial discrimination and the international community continued to search for ways and means to eliminate racial discrimination, ethnic conflicts and violence. However, some of the actions taken by the international community and the United Nations and individual States had been slow and ineffective. There was not always an even-handed approach to overt racist manifestations and policies. Ethnic violence was often left unchecked and pre-emptive action was rare. There was some hesitation about resorting to tested and practical methods. There was also a lack of consistency in the international community's response to racial discrimination and ethnic violence. This was illustrated by the cases of Somalia, Kosovo and Chechnya.

36. With regard to self-determination, international law might have fallen victim to ill-conceived policies, partisan politicking and misguided ethnic sentiments pursued by ethnic majorities and minorities. Mr. Garvalov reminded the seminar that international law had not recognized a general right of peoples unilaterally to secede from a State.

37. The elimination of racial discrimination and ethnic violence could only be possible with the determination and political will of all States, individually and collectively. Combating ethnic conflicts and violence was inseparable from combating all forms of racial discrimination. The most important step that all States must take was to recognize - and admit - that racial discrimination existed on the territories under their jurisdiction. Human rights must become the highest priority for all States and in 1993, the Vienna World Conference on Human Rights made it an obligation.

38. All States Members of the United Nations must become parties to the International Convention on the Elimination of All Forms of Racial Discrimination in order to make it universal. It must be implemented strictly and in its entirety, and reservations should be avoided because they weakened the basis of the Convention.

39. The United Nations must define a global strategy which focused on urgent and effective measures to eliminate racial discrimination and the other major problems of our time such as the explosion of ethnic conflict into ethnic violence. Such a strategy required regular assessment and follow-up measures. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was an opportune occasion to define this global strategy. He emphasized that if the World Conference was to be a success, it must be action-oriented.

40. Mr. Garvalov stated that the United Nations and States should address ethnic minority problems and related religious and linguistic problems without further delay. The solution should be primarily through peaceful means, in accordance with the Charter and the basic international human rights instruments. Humanitarian intervention should be approved by the Security Council only when all attempts at finding a peaceful solution had failed.

41. The seminar was reminded that preventive diplomacy remained one of the best means of resolving ethnic conflicts, and here the Security Council and the Secretary-General had decisive roles to play. He noted that the United Nations was Charter-bound to play a crucial role in this respect, and that Member States had pledged to follow suit. The Secretary-General must be given wider powers in enhancing United Nations rapid reaction capability and in integrating humanitarian assistance with other preventive measures such as early-warning and human rights monitoring. Preventive diplomacy required enhancing, without any delay, the role of the United Nations High Commissioner for Human Rights and of her Office, and strengthening their capabilities appropriately.

42. Mr. Garvalov said that the Security Council should be much more active in preventive diplomacy in order to pre-empt ethnic conflicts from erupting into hostilities and local wars that threatened regional and international security, citing Article 39 and Article 53 (1) of the Charter to support his point that only the Security Council was empowered to act in such situations. In its preventive actions, the Security Council should draw on the expertise of those human rights bodies which had made use of early-warning and urgent procedures, including the treaty bodies as well as other bodies such as the Commission on Human Rights and its Sub-Commission on the Promotion and Protection of Human Rights.

43. Mr. Garvalov stated that early-warning mechanisms were insufficient without prompt and effective action such as diplomatic efforts, a deployment of peacekeepers or a humanitarian intervention. He noted the cases of the genocide in Rwanda (1994) and Bosnia and Herzegovina (1992-1995), where the problem was early action, not early warning, since there had been ample warning that the situations had deteriorated and had assumed horrendous proportions.

44. He noted that three former members of CERD had prepared a paper, "Preventing genocide" (E/CN.4/1999/WG.1/BP.9), which was aimed at the World Conference. The authors had recommended the establishment of a rapid reaction force with an enforcement mandate under Chapter VII of the Charter of the United Nations, which should not be a substitute for the normal range of United Nations peacekeeping operations set up under Chapter VI. It was time that the United Nations had agreed on rapid reaction procedures, including the deployment of a rapid reaction force.

Discussion

45. The Chairperson reminded the seminar that early warning was a key measure in eliminating ethnic violence; however, a related consideration was the issue of who would act once the information was available. The question must be asked: Were there existing instruments or mechanisms for action?

46. It was noted by an expert that in several cases, when the United Nations had become involved in an ethnic conflict it was after the event rather than an early action. The expert also stated that the causes of conflict were numerous and the creation of a multidisciplinary group was fundamental if conflict was to be detected at an early stage.

47. An expert agreed that early warning was important; however, the challenge was how to translate the international instruments already in place into effective promotion and protection of human rights. The expert drew the attention of the seminar to the fact that refugees in Africa received less international support than refugees in Europe. There was a need to ensure moral consistency in the application of international refugee norms.

48. Another expert stated that it was necessary to integrate the guarantees contained in the 1951 Convention relating to the Status of Refugees into the human rights regime. The Convention was not only a fundamental human rights treaty but in essence the first human rights treaty. Human rights protection was broader than refugee protection, as it extended to every human being under the jurisdiction of a State, national or not. The expert also noted that way the matter of peace and security and refugees was addressed by the Security Council pointed to a selective and discriminatory tendency on the part of the Council, as illustrated by the case of Rhodesia in 1961. This raised the question of who or what mechanism would act when the Security Council was paralysed.

49. The seminar was reminded by a participant that early warning was a measure wherein the technical requirements were often at odds with political will or response.

50. The seminar agreed that who should act and how the international community should act were key questions.

51. The seminar acknowledged that education was a key factor in prevention. A participant stated that article 29 of the Convention on the Rights of the Child emphasized that education of children should be undertaken, inter alia, "in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin". The seminar was also reminded that States parties had undertaken to adopt effective measures to promote understanding and tolerance to combat prejudices which lead to racial discrimination and to promote understanding and tolerance, pursuant to article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination. The impact of the Internet was stressed and it was stated that the use of the Internet in conflict prevention measure needed to be explored.

52. The Chairperson-Rapporteur indicated that there appeared to be a change in the climate of international relations and that preventative diplomacy, human rights and early warning

were being seriously considered by the Security Council. The seminar welcomed and endorsed the recent statement by the President of the Security Council (S/PRST/1999/34 of 30 November 1999), particularly its first and second paragraphs, in which the Council, within its primary responsibility for the maintenance of international peace and security, emphasized the need to respect and implement the principles and provisions of the Charter, in particular those related to the prevention of armed conflicts and the settlement of disputes by peaceful means. The Council also affirmed that it will give special attention to the humanitarian consequences of armed conflicts, and recognized the importance of building a culture of prevention. The Council further stressed the importance of a coordinated international response to economic, social, cultural or humanitarian problems, which are often the root causes of armed conflicts. It emphasized the need for all United Nations organs and agencies to pursue preventative strategies and to take action within their respective areas of competence to assist member States to eradicate poverty, strengthen development cooperation and assistance and promote respect for human rights and fundamental freedoms.

53. It was stated by a participant that one structural root cause of ethnic conflicts was the denial of self-determination. Another participant pointed out that self-determination was a highly ambiguous and controversial term and that its application required greater definition and consideration.

54. An expert suggested the establishment of a permanent monitoring unit, possibly within the Office of the High Commissioner for Human Rights. Another expert noted that information on ethnic conflicts was abundant; what was lacking was rather political will. Similarly, a participant noted that a network of early-warning systems such as the Commission on Human Rights, the Sub-Commission and the various treaty bodies was already in place but the mechanisms tended not to work very well.

55. With regard to preventive diplomacy, it was acknowledged that the Office of the High Commissioner for Human Rights had been working to strengthen national institutions and regional instruments.

56. The seminar was reminded of the distinction between de jure discrimination, where the international community was making some progress, and de facto discrimination which presented a greater challenge because it was based on psychological and social discrimination.

57. Mr. Garvalov reminded the seminar that ethnic conflicts were often incited by public authorities or Governments and that the international community must be vigilant about the actions of both Governments and private parties. He also reminded the seminar of the primary responsibility of States in combating racial discrimination.

IV. TOPIC THREE: RACISM AND INTOLERANCE IN THE HOST COUNTRY

Presentation

58. Mr. Peter Nobel stated that "intolerance" should be the key word for the World Conference. During the presentation of his paper, "Racism and intolerance versus refugees in

the host country" (HR/GVA/DR/SEM/1999/BP.3), he defined tolerance as the respect for human rights and fundamental freedoms; intolerance was its opposite. The World Conference should condemn intolerance and clarify how it was instrumental in generating racial discrimination.

59. Mr. Nobel noted that racial intolerance vis-à-vis refugees was generally most visible in rich and industrialized countries through their application of a restrictive immigration policy. He reminded the seminar that practically all countries were multi-ethnic, because every country contained more than one ethnic group, and that the history of humanity was one of population movements.

60. There was much confusion in host countries particularly the media and the public, about what constituted a refugee. Another problem was that the definition of a "convention refugee" was rather strict and narrow and covered only a portion of those who were forced to flee: mass movements of people were also caused by armed conflict or indiscriminate violence against civilians by armed forces. Further, Western Governments have tended to avoid the term "de facto refugees" and have in various ways limited assistance or protection to such refugees.

61. Intolerance thus, was not normally directed against refugees as such but against non-nationals, foreigners, minority groups, etc.; it was part of the general racist and xenophobic currents in the host country. These currents in their turn have been considerably strengthened by the way political establishments have handled refugee matters and crises.

62. Mr. Nobel acknowledged that intolerance towards refugees in the host country occurred under different conditions around the world. He briefly considered the situations in Africa, Latin America and Asia before focusing on Europe and North America. The United States, Canada, Australia and Western Europe had attracted immigrants and asylum-seekers from other parts of the world, and various Governments were responding to domestic pressure with legislation and a battery of measures designed to control and restrict immigration.

63. In Western Europe, this intolerance was manifested in the "fortress Europe" mentality and was also reflected in laws and policies such as the Schengen Agreement. In the 1980s, an increase in the numbers of foreigners and asylum-seekers from countries including Bangladesh, Sri Lanka, Somalia, Rwanda, Iraq, Turkey and the Middle Eastern countries tested the ethnic tolerance of Europeans. The media simplified and dramatically exaggerated the issue, inflaming public opinion which in turn was further exaggerated by the media. Mr. Nobel saw the former spirit of humanitarianism as giving way to a tendency to see refugees, immigrants and immigration as a complex set of problems calling for technical and administrative solutions. There was a certain alarmism, and few remembered that refugee problems in the host country were temporary and that the effects were limited.

64. He briefly outlined and discussed the eight elements of "fortress Europe": (i) the requirement of an entry visa, or of a residence or work permit prior to admittance to a country; (ii) economic and other sanctions on air carriers found carrying alien passengers without the necessary documents; (iii) open or secret diplomacy directed at countries of origin preventing transit, checking outflow, etc.; (iv) international police cooperation; (v) amendment of penal codes making it punishable to assist asylum-seekers with economic compensation, passage or documentation; (vi) establishment of refugee reception centres and detention facilities where the

unsatisfactory conditions served as a deterrent; (vii) use of terminology which created a general atmosphere of suspicion, confusion and bad will among the public, such as "mass influx" "floods of refugees" " without papers"; (viii) the implementation of the restrictive policy through rejections at the border and expulsion orders, sometimes carried out with great brutality.

Discussion

65. An expert reminded the seminar that a factor linked to the problem of racism and intolerance in the host country was that the inhabitants of the host country were often no better off than the refugees or asylum-seekers. Therefore, it was important to foster better understanding among public and partnerships between Governments and civil society.

66. A participant cautioned the seminar against confusing the definitions and problems of "immigrants" with those of "refugees". The scope and nature of the problems of the two groups were very different.

67. It was noted by some of the participants that Mr. Nobel's presentation of Western European policies had focused only on the negative side. Western Europe had introduced many new initiatives since the Schengen Agreement, such as the Conclusions of the European Conference on Promotion and Mental Health and Social Inclusion (Tampere, Finland, October 1999) the proposals for an anti-discrimination strategy issued by the Commission of the European Communities in November 1999 and the European Conference on Nationality convened in Strasbourg in October 1999 to address issues such as discrimination, migration and refugees.

68. The Chairperson-Rapporteur requested that copies of the documents referred to by Mr. Nobel be distributed to the seminar. Mr. Nobel suggested, however, that the Tampere conclusions were more rhetorical than substantive. The problem remained one of mustering the necessary will.

69. An expert stated that two key questions needed to be raised: (i) Were States willing to accept the political and economic consequences of refugees? and (ii) What was to be done when refugees or asylum-seekers were repatriated? Their human rights must be respected in the post-return period as well.

70. Another expert noted that intolerance and racism in the host country was not only limited to far-right groups, but was also evident in mainstream political parties and this matter needed to be tackled as well. Another important issue was that of detention procedures regarding asylum-seekers in host countries. This required the attention of the international community because many asylum-seekers, including minors, were detained, often for months or years.

71. An expert informed the seminar that there were problems with refugees in African host countries as well. It was stated that the laws may be in place, but the problem was the practice. It was also noted that the key problem causing intolerance in African host countries was poverty.

72. Another expert noted that there was a disproportionate refugee burden taken on by African countries as compared to European countries. The Mauritius Declaration and

Programme of Action acknowledged a replication of the trend witnessed in Europe of xenophobia and the desire to keep out foreigners. Mitigating factors and solutions could be found in the establishment of effective human rights institutions to deal with the issues of refugees and migrants.

73. The seminar agreed on the important role of education in addressing the problem of intolerance and racism in the host country. Domestic educational initiatives must involve the media, primary education and public outreach.

74. One participant did not agree with the distinction between refugees and immigrants made by Mr. Nobel. The participant also pointed to the phenomenon of migration for advantageous political ends, as seen recently in the media.

75. It was stated by an expert that language used to describe foreigners and the issue of asylum-seekers and immigration policies was very important. A European Union member had used the phrase "extra-community citizens".

76. A participant stated that the contemporary trend in European and North American countries, particularly far-right groups, was to "demonize" immigrants or refugees. Racism was an expression of power and it was also based on a perception that poor refugees were coming to a rich country, yet it was forgotten that migrants or refugees contributed to the building of wealth in Western countries. Education was an absolutely essential factor in bringing about change.

77. Finally, Mr. Nobel stated that contrary to the NGO experience with the Beijing Conference, NGO participation in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and its preparatory processes was fundamental.

V. TOPIC FOUR: RACISM AS AN OBSTACLE TO RETURN AND REINTEGRATION

Presentation

78. In his presentation "Racism and Ethnicity as an obstacle to return and reintegration" (HR/GVA/DR/SEM/1999/BP.4), Mr. Kallu Kalumiya (Office of the High Commissioner for Refugees (UNHCR)) described some of the main obstacles posed by racism and ethnic discrimination to effective return and reintegration of refugees and returnees and drew the attention of the seminar to key areas that required attention if the obstacles were to be overcome and sustainable return achieved.

79. He recalled that refugees, i.e. those in need of international protection, were often fleeing from armed conflict, generalized violence, severe disruptions of public order or widespread abuses of human rights. At the core of international protection was the principle that people should not be forced to return against their will to a country in which their lives or freedom would be endangered because of "race, religion, nationality, membership of a particular social group or political opinion". The principle of non-refoulement was therefore extremely important in the protection of refugees. Protection must include both the physical security and human

dignity of refugees. The essential elements of international protection, then, were admission to safety, exemption from forcible return, non-discrimination, and assistance to meet their basic needs and fundamental human rights.

80. UNHCR's protection strategy encompassed a comprehensive policy that dealt with the whole cycle of forced displacement. Issues of racism and intolerance were serious obstacles at each stage of the exodus-return-reintegration cycle. Some of the obstacles to return could be attributed to a weak State and civil society which made the process of peace-building and the creation of a stable and secure environment problematic. Large-scale returns of refugees was a difficult process which could cause social and economic tensions in the country of origin.

81. Reintegration was an integral element of the broader process of peace-building. It was therefore crucial for States emerging from violent ethnic conflicts to secure the commitment and participation of all levels of society to the process of reconciliation. Reconciliation involved ensuring the peaceful coexistence of parties to the conflict, the provision of a safe environment for people to invest in rebuilding social relations, and the promotion of human rights and minority rights through legislation, education, and some form of equitable redistribution of economic and social wealth of the "new" society. UNHCR collaborated with human rights actors and military actors and assisted the State in providing national protection to returnees such as by promoting freedom of movement and inter-ethnic reintegration.

82. Mr. Kalumiya identified a number of common issues relating to racism and discrimination and refugees which must be addressed. Inter alia, he stated that: States should ensure that all sectors of society take concerted urgent action to address persistent racism against people perceived as "foreigners" or "aliens"; States should invest more resources and efforts towards eliminating the root causes of racism and xenophobia; public officials should be held accountable for their public statements; to help create and foster healthy social attitudes there should be expanded communication and education about xenophobia; States should actively seek to eliminate economic racism and ethnic discrimination from the structures and systems of Government itself; major institutions at all levels of community life must be targeted (family, educational institutions, law and policy-makers, the workplace and religious leaders); independent national human rights institutions, ombudsperson offices and the judiciary are crucial partners in overcoming racism.

Discussion

83. A participant stated that voluntary repatriation was the best durable and most desirable solution to the problem of refugees and discrimination. Another participant reminded the seminar that the international community must consider the question of which conditions made the reintegration of refugees or returnees more likely to occur?

84. The seminar agreed that the international response to a refugee crisis was often a direct function of media attention. Mr. Kalumiya said that United Nations agencies were working with human rights agencies and NGOs on this problem. The Security Council was dealing with the issue of international attention in refugee crises, as well as questions of equity and resource allocation in refugee matters. There was also a sensitivity to this issue among many donor countries.

85. The seminar was also reminded by a participant that the country of origin was often not willing to accept returning refugees. A related issue was that often, the country of origin would insist on valid documentation, often impossible given the situation of refugees.

86. An expert drew the attention of the seminar to the special needs of women and children in repatriation and suggested that future refugee and human rights programmes in this area focus on these groups in particular. The expert also stated that a coordinated human rights training strategy was required for lawyers and the judiciary on the issues of refugee return and reintegration and human rights. There should be a clear link between OHCHR and UNHCR on technical assistance training projects.

87. An expert noted that the decision about when conditions were safe for the return of refugees was made unilaterally by the host country. The basis for this decision required careful examination by the international community, particularly where refugees had been forced to flee because of racial and ethnic conflicts in the country of origin. The international community must also address the sustainability of return, an issue that should be coordinated with long-term United Nations development programmes in the country of origin.

88. An expert pointed out that when discussing refugees, the international community at times overlooked refugee situations in South and East Asia, such as the Bhutanese refugees in Nepal.

89. The matter of the land and property rights of refugees was also discussed. Often, land belonging to refugees or returnees is occupied or in the possession of another ethnic or racial group by the time the former return, frequently causing conflict. This required study, better coordination and the involvement of the United Nations. UNHCR and the international community needed to continue to encourage bi- and tripartite frameworks for repatriation which included clauses on the reclamation of property.

90. A participant raised the question of how a State could ensure the return of refugees or returnees where the State, or civil society itself, had collapsed.

91. The phenomenon of "self-exclusion" by refugees in the host country was raised by a participant who noted that refugee populations tended to group together, which could exacerbate tensions in the host country. The issue of "migrational opportunism" was also raised wherein persons or groups could take advantage of the legitimate situation of a group of refugees in order to migrate to a host country.

92. Mr. Kalumiya, in responding to the interventions, noted that difficulties arose when neighbouring States were unwilling to take in refugees. This had been the case in Afghanistan where there was ongoing voluntary and involuntary repatriation. He presented the case of Guatemalan refugees in Mexico as an illustration of exemplary voluntary repatriation; Mexico had given the refugees option of full citizenship. He also drew attention to the consequences of refugee crisis at both ends: in the country of return and in the host country, both of which were likely to suffer damage owing to the mass movement of people. He acknowledged the importance of regional instruments and said that they should enshrine the principle of voluntariness.

93. Mr. Kalumiya agreed that there needed to be increased coordination between UNHCR and OHCHR. There was a need for a coordinated strategy, particularly concerning the monitoring of the consequences of return. He stated that there were no formal linkages as yet; however, refugee law was inseparable from human rights law.

VI. TOPIC FIVE: CONSOLIDATING MULTI-RACIAL AND MULTI-ETHNIC STATES THROUGH HUMAN RIGHTS

Presentation

94. Professor Yutzis noted that the subject matter of his paper, "Los derechos humanos como instrumentos para la consolidación de los Estados multiraciales y multiétnicos" (HR/GVA/DR/SEM/1999/BP.5), and its presentation were not intended to describe all the problems associated with the consolidation of multi-racial and multi-ethnic States, but to underline some of the fundamental aspects in the context of Latin America which might be reflected in other geographic regions.

95. He said that the international community should acknowledge that all States were, in one way or another, multi-ethnic and multi-racial. In addition, the consolidation of multi-racial and multi-ethnic States was contingent upon the link between the State, development and democracy; therefore, without development and democracy it cannot be said that a multi-ethnic or multi-racial State can be consolidated.

96. Racism and racial discrimination were global and systemic problems. The ideology of domination and its resulting structural practices which prevented equality between cultures in different social and institutional contexts, should be taken into account.

97. Fundamental to the phenomenon of systemic underdevelopment in Latin America was the process of "actualización histórica", where external colonial powerful elites - in conjunction with dominant internal groups - caused the loss of indigenous people's autonomy and culture. Therefore, underdevelopment should not be understood as a stage prior to development, but as its functional opposite.

98. From a historical point of view, totalitarianism allowed economically dominant groups to prolong the submission and cultural degradation of non-dominant components of the society: minorities, ethnic groups and indigenous peoples. This situation led to a form of "ethno-nationalism". Two "ethno-nationalistic" strategies were used to perpetuate the submission of the non-dominants. One was the exclusion of indigenous peoples from participating in the State's civil and political life and the refusal of their rights. The other consisted of discriminatory violence to the benefit of an economic, social or political power by "triangulating" a conflict, i.e. permitting an authoritarian third entity to interfere, thereby exacerbating the conflict.

99. In the modern globalized economy, the State had yielded power to the market. Some of the consequences were: (a) a new form of "mis-protection" of the most vulnerable groups;

(b) increased inequality in the distribution of wealth and the structural exclusion of the most vulnerable groups from participating in civil and political life; (c) an increase in racism and discriminatory practices; and (d) an increase in ethnic conflicts.

100. In the past, totalitarian States contributed to the marginalization of indigenous peoples. This effect is still apparent, although now it is due to the weakness of the State in a globalized market economy. The "ethno-centralism" of the State had turned into "ethno-centralism" of the market, which hampered economic democracy because it diminished the power of States to make decisions in the economic field.

101. Professor Yutzis stated that since all human rights were indivisible, political democracy was incomplete without economic democracy. Owing to the fact that democracy (both economic and political) and development were required for the consolidation of multi-racial and multi-ethnic States, the consolidation of a multi-ethnic State could not be attained without democracy.

102. Recalling that all States were multi-ethnic and multi-racial, and considering specifically the situation of indigenous peoples in Latin America, a new concept should be put into practice in order to attain democratic and equitable development: "ethno-development". This was essentially the capacity of a population to build a more promising future on its own initiative and with regard to its own history and cultural resources. "Ethno-development" implied the participation and involvement of ethnic groups in democratic institutions in order to achieve their integration in civil and political life.

Discussion

103. Many experts and participants acknowledged that the problems of multi-racial and multi-ethnic States were systemic and not just psycho-social or personal issues of discrimination. Many also noted the importance of democracy and the indivisibility of all human rights.

104. The Chairperson-Rapporteur noted that the Working Group on Minorities did not work on the basis of the notion of self-determination.

105. A participant stated that it was necessary to negotiate ethnic conflicts in a way that would constrain those who would profit by such conflicts - "ethnic entrepreneurs" . The Chairperson-Rapporteur pointed to the Hungarian minority in Romania as a case of constructive accommodation.

106. An expert noted that it was important to study the nature and characteristics of poor and underdeveloped democracies to determine how those characteristics impacted on ethnic relations.

107. A participant pointed out that there was a dichotomy between institutionalized racism and "personal" racism. The tendency to portray racism solely as a North American or European phenomenon was wrong, and such a depiction minimized the role of Governments. Internal armed conflict was a manifestation of structural racism; that issue would be a challenge for the

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The participant also made a point about the market and human rights and said that democracy was not about human rights per se.

108. Another participant replied that the term "democracy" suggested the indivisibility of all human rights. The task for modern societies was the achievement of an appropriate and balanced implementation of this indivisibility. The participant added that not only were all States multi-ethnic, but all States were artificial as well.

109. The Chairperson-Rapporteur stated that the market had a tendency to work against the indivisibility of all human rights, but that this could be compensated for without relinquishing the positive aspects of globalization. He also noted that certain international institutions appeared to be on the ascendant whereas others were losing importance. The question then became: Who would defend human rights? He suggested that the modern State was struggling with the responsibility of defending human rights against the impact of the market, while protecting multi-ethnicism and multi-racialism. He noted that the State assumed this responsibility with the assistance of international institutions.

110. A participant stated that globalization promoted differentiation among and within countries and that without economic democracy there could not be political democracy. The establishment of human rights institutions and human rights education were insufficient to address this fundamental problem.

111. An expert pointed to innovative policies and programmes at the national, regional and international level. The expert also agreed with Professor Yutzis' suggestion of regional markets for the cultural goods of peoples, and that States had an obligation to support civil society.

112. An expert stated that it was time to rethink the political and economic system that concentrated wealth in the hands of a few in the name of democracy, as it was this system that had created ethnic and racial conflicts. The seminar was also reminded of the issue of sexism in the context of racism, which should be addressed by the international community.

113. Professor Yutzis replied that there had been an erosion of multilateral international organizations. Many multilateral organizations did not fulfil the commitments that had been prescribed in the international texts. Further, he pointed out that it was necessary to detect ethnic and racial conflicts in advance and that the implementation of article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination was very difficult. He suggested the use of inter-disciplinary preventative mediation and that task forces (taking account of the gender, political, psychological and other perspectives) should be established to interpret the positions and language of the parties to a given conflict and facilitate a solution.

VII. OBSERVATIONS AND SUGGESTIONS OF THE PARTICIPANTS

114. A draft Summary of suggestions and draft recommendations was distributed and discussed. With respect to Mr. Garvalov's suggestion for the establishment of a rapid reaction force (see para. 133) a participant stated that the use of force in racial and ethnic conflicts required greater study, and that the role of the Office of the High Commissioner for Human

Rights and of the Security Council needed to be clearly articulated. Another expert stated that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance needed to highlight effective action to prevent genocides such as had recently occurred. The Security Council was the legitimate authority in this area: How would it implement the idea of a rapid reaction force?

115. The observer for Cuba objected strongly to the proposal for a rapid reaction force, stating that it suggested a change in international law and in the powers of the Security Council under the Charter. Another expert asked Mr. Garvalov to withdraw the suggestion, which Mr. Garvalov declined to do.

Summary of observations and suggestions of the Expert Seminar on Racism, Refugees and Multi-ethnic States

116. It was agreed that the seminar should not formally adopt recommendations, but list those observations and suggestions made by experts and participants which appeared to have broad support, it being understood that there was not necessarily full consensus on each of them. Therefore, the respective observations and suggestions as made by participants and experts and amended by the seminar, have not been attributed to the individual proposing it. The responsibility for the rendering of the observations and suggestions as they appear rests with the Chairperson-Rapporteur.

A. Racism and ethnic tension as root causes of refugee flows

117. States should recognize racial and ethnic diversity wherever it exists and encourage peaceful coexistence through political and social policies and through multicultural and intercultural education.

118. Legal provisions alone are insufficient solutions to racial and ethnic discrimination. Racism and ethnic bigotry are often inherent in the structures of the society. Combating racial and ethnic discrimination must entail the redistribution of social, economic and cultural power by promoting social justice and fairness, ensuring equal opportunities and participation for all.

119. Racism and ethnic bigotry can assume subtle forms. Ethnic or racial entrepreneurs who seek to instigate ethnic or racial tensions should be exposed.

B. Measures to Eliminate Racial Discrimination and Ethnic Violence

1. State Action

120. There should be universal acceptance of international human rights, refugee and humanitarian law, and States should adopt all necessary measures at the national level to ensure the implementation of their obligations under these branches of international law.

121. All States should unequivocally accept the primacy of international law over domestic legislation in matters of human rights, particularly with regard to racial discrimination and ethnic conflicts. They should: take effective measures to protect all persons against racial

discrimination in both the public and private sectors; criminalize incitement to racial hatred; ensure equal treatment of migrants, refugees, asylum-seekers and displaced persons, including the rights of non-citizens and protection against xenophobia; combat hate speech and promote tolerance in the Internet age; recognize that racism, racial discrimination, xenophobia and related intolerance are challenges to peace and human rights.

122. Governments should make it a priority to educate the public as well as train law enforcement officers to respect and protect human dignity and to combat racism, racial discrimination and xenophobia.

123. States should be called upon to ratify the Rome Statute of the International Criminal Court, in order to help to prevent genocide and facilitate, *inter alia*, the trial of perpetrators of genocide, crimes against humanity, including murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecution on political, racial and religious grounds and other inhumane acts directed against any civilian population, and grave breaches of the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977.

124. A very important issue in ethnic conflict prevention is the discontinuation of the proliferation of arms in regions of concern.

125. Until the International Criminal Court has authority to act in cases of genocide, any contracting party to the Convention for the Suppression and Punishment of the Crime of Genocide should be encouraged to take the initiative to invoke article VIII of the Convention, whenever "direct or public incitement to commit genocide" (art. III (c)) is manifested by anyone.

2. United Nations Action

126. The United Nations must define a global strategy to address racial discrimination, the explosion of ethnic conflict and the alarming proportions of ethnic violence, and assess the strategy regularly with follow-up measures.

127. Harmonization of work is necessary between the Office of the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees, and indeed throughout the United Nations system, to ensure adequate protection of refugees and internally displaced persons from social and other forms of discrimination.

128. The United Nations must elaborate an international instrument of a binding character defining the rights and obligations of persons belonging to minorities, and must clarify its position on the understanding of the right to self-determination of peoples.

3. Prevention

129. A global strategy could contain, inter alia, some of the following points:

(a) Identify and monitoring ethnic conflicts and other sources of ethnic violence, elaborating measures to contain them, and searching for peaceful solutions with direct participation by host States and parties to the conflicts, and with the active cooperation of regional and international mechanisms;

(b) Assisting States in establishing national institutions for the promotion and protection of human rights;

(c) Encouraging States to continue reviewing national legislation concerning racial discrimination;

(d) Encouraging States to carry out law enforcement training with special emphasis on racial and ethnic groups; and

(e) encouraging States to review school curricula and other educational and training programmes, and to adjust them to the requirements for the elimination of racial discrimination and ethnic conflict and violence prevention.

4. Preventive diplomacy, rapid reaction and early warning

130. Preventive diplomacy requires enhancing without any delay the role of the United Nations High Commissioner for Human Rights and of her Office, and strengthening appropriately their capabilities.

131. The Security Council must get involved much more actively in preventive diplomacy in order to pre-empt ethnic conflicts from erupting into hostilities and local wars that threaten regional and international security.

132. The Security Council should draw on the expertise of those human rights bodies which make use of their early-warning and urgent procedures, particularly treaty bodies such as CERD and the Human Rights Committee, as well as other bodies such as the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights.

133. A rapid reaction force should be established that shall have an enforcement mandate under Chapter VII of the Charter of the United Nations, and which shall not be a substitute for the normal range of United Nations peacekeeping operations set up under Chapter VI of the Charter. The Secretary-General of the United Nations must be given wider powers in enhancing the United Nations rapid reaction capability, and in integrating humanitarian assistance with other preventive measures such as early-warning and human rights monitoring.

5. Committee on the Elimination of Racial Discrimination (CERD)

134. All States Members of the United Nations must become parties to the International Convention on the Elimination of All Forms of Racial Discrimination in order to make it universal. Reservations weaken its nature.

135. CERD must be strengthened appropriately in order to focus also on genocide and its link with racial discrimination, having in mind the relevant articles of the 1948 Convention on the Suppression and Punishment of the Crime of Genocide, in order to be able to pursue more effectively its early-warning and urgent procedures, and protection against racial discrimination.

136. The capacity of CERD's urgent procedures mechanisms should be strengthened, so that it may be able to act immediately under article 4 of its Convention with regard to any mass media appeals and to any other incitement to racial discrimination and violence leading to genocide.

137. The resources of CERD should be increased to enable it to act effectively in investigating fully any allegations of genocide or direct or public incitement to commit genocide brought to its knowledge by Member States, an international organization or an NGO, and to be able to cooperate with an early-warning and any good offices functions of the United Nations.

138. As a corollary, State party reporting to CERD should take place in a spirit of open and constructive dialogue rather than be characterized by defensiveness and suspicion of external interference.

139. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance should:

(a) Affirm article 2 (1) (a) of the International Convention on the Elimination of All Forms of Racial Discrimination, which states that "[e]ach State party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation";

(b) Affirm article 2 (1) (c) which states that "[e]ach State party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists".

6. Racism, education and the Internet

140. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance could encourage discussion on the use of the Internet as a means to fight racism, racial discrimination, xenophobia and related problems, and condemn the use of the Internet for the purposes of inciting racial or ethnic hatred and intolerance.

141. Coordination within the Third Decade to Combat Racism and Racial Discrimination and the United Nations Decade for Human Rights Education should be strengthened. The importance of human rights education should be emphasized, and in that context education against racism, racial discrimination, xenophobia and related intolerance. There is a need for a coordinated strategy involving the United Nations Educational, Scientific and Cultural Organization, OHCHR and UNHCR, specifically as part of the review of the Decade.

7. Vulnerable groups: women and children

142. Specific attention and resources should be devoted to monitoring the respect of the rights and fundamental freedoms of persons belonging to groups that are particularly vulnerable to human rights abuses and discrimination, including minority groups and indigenous peoples, women, children and the disabled, in all phases of their return and resettlement in their countries of origin. Sexism should be addressed along with racism.

C. Racism and intolerance in the host country

143. The prevention of intolerance should be the key concern of the World Conference. Governments should be called upon to observe ethnic and religious tolerance and pay full respect to the International Bill of Human Rights. Reservations to these instruments should be discouraged.

144. Governments should comply with their obligations under international law and observe without any discrimination the principle of non-refoulement. Therefore, asylum should be granted according to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol thereto and regional instruments which may have been adopted States which have not ratified any of these instruments should do so.

145. Governments must ensure that their agents and national authorities entrusted with refugee determination procedures perform their duties without discrimination on the grounds of race, ethnicity or national origin.

146. Asylum cases should be decided on their merits regardless of whether asylum-seekers carry documents. In all cases, refugees and asylum-seekers should have access to legal services and remedies and to relevant NGOs.

147. Governments should not delegate to private air companies or other entities their responsibilities concerning access to their territories by asylum-seekers. CERD should consider whether the penalization by States of airlines transporting asylum-seekers without necessary travel documents has the effect of racial or ethnic discrimination on the right to seek asylum.

148. The World Conference should consider the phenomenon of discriminatory treatment on the basis of colour and ethnicity at entry points and immigration counters around the world, where the principle tends to be "presumed guilty until proven innocent".

149. All Governments should recognize all "refugees", not only those included in the refugee definition of the 1951 Refugee Convention, but also those who are described in the second part of the refugee definition in article 1 (2) of the 1969 Convention Governing Specific Aspects of Refugee Problems in Africa of the Organization of African Unity, and grant them access to protection and assistance.

150. Governments and their agents should avoid hate speech or other statements that can be interpreted as expressions of contempt or threat to refugees and asylum-seekers, and they should promote legislation against such expressions or manifestations in society.

151. Governments should ensure that refugees are not racially or ethnically segregated from society and should assist communities and NGOs in integrating them.

152. Considering that the grant of asylum may place an unduly heavy burden on certain countries, and that refugee issues are the responsibility of all States, UNHCR should design a system whereby refugee responsibilities are shared amongst States.

153. The refugee and asylum determination process and expulsion, where applicable, must be conducted in a humane and considerate way.

D. Racism as an obstacle to return and reintegration

154. States should ensure that all sectors of the society take concerted action to address with urgency racial division, especially the persistence of racism against people perceived as "foreigners" or "aliens". This requires sustained educational and pro-active initiatives at the community level which will promote harmonious social relations between different ethnic groups.

155. The following major institutions at all levels of community life should be targeted:

(a) The family needs specific attention to prevent future generations from being drawn into the same cycles of prejudice and intolerance that give rise to further refugee displacement;

(b) In schools, colleges and universities, a culture of respect for human dignity and difference can be developed;

(c) Law and policy makers and other members of the elite in any society should be responsible and accountable for their public statements;

(d) The judicial system, ombudsperson offices and independent national human rights commissions are crucial partners in overcoming racism and xenophobia, ethnic tensions and discrimination against minorities;

(e) In the workplace, respect for human dignity and non-discrimination on the grounds of race should be promoted;

(f) Religious leaders and institutions can be essential for moral, ethical and spiritual rejuvenation of the society on a basis of inclusiveness and tolerance.

156. The perpetrators of racist and xenophobic violence must be brought to justice through the courts of law. Law enforcement agencies must ensure that racially motivated attacks are not tolerated and that a culture of impunity is not allowed to take hold in "newly" formed societies.

157. Ongoing public information campaigns by States, NGOs, UNHCR and other United Nations agencies should be encouraged. The media is an essential tool of positive social change.

158. Non-governmental organizations have an important role to play by providing strong and independent advocacy that sensitizes the public and government officials on the issue of racial and ethnic discrimination and xenophobia.

E. Consolidating multiracial and multi-ethnic States through human rights

159. States should acknowledge and implement in their legislation and culture the reality of the multiracial, multi-ethnic and multicultural composition of their States, and should advance a culture of democracy through daily implementation of civil, political, economic, social and cultural rights without discrimination.

160. Interdisciplinary task forces should be constituted as preventive tools for mediation, and should incorporate gender, psychological, political and economic approaches and disciplines.

161. Globalization risks causing exclusion and increased inequality, often along ethnic or racial lines. States should define and promote legitimate measures of welfare, employment and equal opportunities for those left behind by globalization.

162. "Ethno-development", the capacity of a population to build a more promising future on its own initiative, could be used to attain equitable and democratic development for the indigenous peoples in Latin America. The State should support indigenous peoples in constituting political groups which possess a degree of self-determination, and undertake to create and promote the conditions for the legal acknowledgement of indigenous peoples' own internal organizational forms, local government, productive work, and cultural and communal life, among others.

163. Claims for land formerly belonging to indigenous or ethnic groups should be further considered.

164. The languages of indigenous peoples or minorities should be recognized. In countries where various languages coexist, the official language should be a communication instrument, a kind of "lingua franca".

165. The active participation of children and young people in regional and national development should be encouraged. Teachers should act as agents to transmit the oral knowledge of the ethnic community within which they work.

166. Where mass media does not reflect minority or indigenous cultures, local and regional markets should be created and the free circulation of culture through books, videos and films about minorities and ethnic and indigenous peoples should be promoted. Television and radio broadcasting time for cultural programmes should be allotted also to regional and national ethnic groups.

167. The implementation of minority rights should ensure equality between all individuals and minorities in society; contribute to the enjoyment of all human rights by all members in society;

guarantee access to resources on a basis of equality; integrate all minorities as an essential component of peaceful, democratic and pluralist societies and ensure harmony and stability within States and between States, in particular with kin States.

168. Minorities should be involved at the local, national and international levels in the formulation, adoption, implementation and monitoring of standards and policies that affect them. Effective participation requires representation in legislative, administrative and advisory bodies and, more generally, in public life. States should also establish advisory or consultative bodies involving minorities within appropriate institutional frameworks.

169. Decentralization of political power would increase the chances for minority participation in the exercise of authority over matters which affect them and the societies in which they live.

Appendix I

AGENDA

1. Opening of the seminar:

   (a) Statement by the United Nations High Commissioner for Human Rights;

   (b) Election of the Chairperson-Rapporteur;

   (c) Adoption of the agenda.

2. Topic One: Racism and ethnic conflicts as a root cause of refugee flows, as well as the causes of these tensions. Paper presented by Professor Pita Agbese, University of Northern Iowa:

   (a) Racism and institutionalized racial discrimination;

   (b) Ethnic nationalism in civil society and political life;

   (c) Political structuring of multi-ethnic societies.

3. Topic Two: Measures to eliminate racial discrimination and ethnic violence. Paper by Mr. Ivan Garvalov, member, Committee on the Elimination of Racial Discrimination:

   (a) Early-warning systems;

   (b) Urgent actions.

4. Topic Three: Racism and intolerance in the host country. Paper presented by Mr. Peter Nobel, member, Committee on the Elimination of Racial Discrimination:

   (a) Non-refoulement and the right to asylum on a non-discriminatory basis (racial discrimination against asylum-seekers in the process of reviewing petitions, problems experienced and recommendations, expulsion of asylum-seekers who are refused refugee status);

   (b) Non-discrimination and protection of refugees against racism and xenophobia (legislation and national institutions for protection, specific problems of refugees, affirmative measures to reduce and eliminate racial discrimination against refugees, such as education and training, job insertion programmes and assistance to the host community).

5. Topic Four: Racism as an obstacle to return and reintegration. Paper by Mr. Kallu Kalumiya, Deputy Director for International Protection, Office of the United Nations High Commissioner for Refugees:

   (a) Easing ethnic tensions among refugees in the host country;

(b) The integration of returnees (availability of economic assistance from the host country and international organizations on a non-discriminatory basis; compensation for loss by the country of origin; measures taken to ease ethnic tensions, such as assistance to the community of repatriation; national, regional and international guarantees, and protection from further racial discrimination.

6. Topic Five: Consolidating multiracial and multi-ethnic States through human rights. Paper by Dr. Mario Yutzis, member, Committee on the Elimination of Racial Discrimination:

(a) The protection of minorities against racism and racial intolerance;

(b) Political participation and democratic institutions;

(c) The right to development: enjoyment of all human rights, in particular social, economic and cultural rights.

7. Conclusions and recommendations.

Appendix II

LIST OF ATTENDANCE

I. PARTICIPANTS

A. Members - Committee on the Elimination of Racial Discrimination

Ivan Garvalov
Peter Nobel
Mario Jorge Yutzis

B. Experts (participating in their personal capacity)

Pita Agbese (University of Northern Iowa)
Antonella Attardo (Minority Rights Group)
Asbjørn Eide (Norwegian Institute of Human Rights)
Bimal Ghosh (New International Regime for Movements of People)
Vera Gowland (Graduate Institute of International Studies)
Daniel Helle (International Committee of the Red Cross)
Olatokombo Ige (International Commission of Jurists)
Jainaba Johm (African Commission on Human and People's Rights)
Zoran Jovanovic (International Committee of the Red Cross)
Julie Mertus (Ohio Northern University)
Barney N. Pityana (South African Human Rights Commission)
Cécile Quan (International Committee of the Red Cross)
Agha Shahi (Member, Committee on the Elimination of Racial Discrimination)
Mangala Sharma (Buthanese Refugees Aiding the Victims of Violence)
Shanta Shrestha (Office of the Lutheran World Federation in Nepal)
Rodolfo Stavenhagen (Mexican School)
Atsuko Tanaka (International Movement against All Forms of Discrimination and Racism)

II. OBSERVERS

A. United Nations bodies

United Nations High Commissioner for Refugees	Kallu Kalumiya Richard Towle Luise Druke
United Nations Population Fund	Alphonse MacDonald Khaled Hassine

B. Specialized agencies

International Labour Organization	Carlien van Empel

C. Member States

ANGOLA	Rolando F.D.J. Neto
ARGENTINA	Pablo Chelia
AUSTRALIA	Andrew Goledzinowski
AUSTRIA	Gabriela Kuhtreiber
AZERBAIJAN	Tofik Moussaev
BANGLADESH	Ismat Jahan
BELGIUM	Machteld Fostier
BRAZIL	Antonio Carlos Naseimento Pedro
CANADA	Kenneth Bush (Department of Foreign Affairs, Ottawa)
CHINA	Cong Jun
CUBA	Jorge Ferrer
ETHIOPIA	Almaz Amaha
FRANCE	Hervé Magro Annabella Maupas
HOLY SEE	Massimo de Gregori
ISRAEL	Teizu Guluma
ITALY	Giulio Vinci Gigliucci
JAPAN	Nobuko Iwatani
LITHUANIA	Eduardas Borisovas
MADAGASCAR	Clarah Andriamjaka
MEXICO	Alesandro Negrin
MOROCCO	Lofti Bouchaara
PAKISTAN	Farruk Iqbal Khan

POLAND	Agnieska Wyznikiewicz
QATAR	Maisra Khalifa
REPUBLIC OF KOREA	Jae Hoon Lim
ROMANIA	Alexandru Farcas
RWANDA	Jacqueline Rusiribya
SENEGAL	Diégane Sambe Thioune Abdoulaye Dieye
SPAIN	Iñigo de Palacio Espana
SRI LANKA	Wijayabinghe Wajira Prabkath A. Saj U. Mendis
SOUTH AFRICA	Haiko Alfeld
SWEDEN	Anna Jakenberg
TURKEY	Bulent Meric Serhat Aksen
UNITED REPUBLIC OF TANZANIA	Irene Florence Kasyanju
UNITED STATES OF AMERICA	Cheryl Sim
ZAMBIA	Irene B. Fundafunda E.M. Katongo
ZIMBABWE	Felix Maonera

D. Host country

Boël Sambuc (Commission fédérale contre le racisme)
Jean-Daniel Vigny
Caspar Landolt

E. Intergovernmental organizations

COMMONWEALTH SECRETARIAT	Emmanuel Opoku Awuku
EUROPEAN COMMISSION	Nathalie Davies
INTERNATIONAL ORGANIZATION FOR MIGRATION	Sandra Kroger
ORGANIZATION OF THE ISLAMIC CONFERENCE	Nanguyalai S. Tarzi Jafar Olia

F. Non-governmental organizations

AFRICAN COMMISSION OF HEALTH AND HUMAN RIGHTS PROMOTERS	Ana Leurinda
ASSOCIACIÓN POR LA TOLERANCIA	Javier Sanchez Gonzalvez
ASSOCIATION FOR WORLD EDUCATION	David Littman Jacobus D.J. Waardenburg
ASSOCIATION OF WORLD CITIZENS	René Wadlow Pierre Porret Geniève ve Jourdan
BURMA PEACE FOUNDATION	David Arnott
CARITAS INTERNATIONALIS	Mary Tom
ESPACE AFRO-AMERICAIN	Mercedes Olivia Moya Moreno
FRANCISCANS INTERNATIONAL	Joseph Francis Cistone Elizabeth Reichard
INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY	Mohammad-Madmoud Mohamedou
INTERNATIONAL MOVEMENT AGAINST ALL FORMS OF DISCRIMINATION AND RACISM	Javier Sanchez Gonzalvez
UN WATCH	Jesse Mark Guberman

Appendix III

LIST OF DOCUMENTS

Background papers

Racism and ethnic conflicts as a root cause of refugee flows. Paper by Professor Pita Agbese, University of Northern Iowa (English only) (HR/GVA/DR/SEM/1999/BP.1)

Measures to eliminate racial discrimination and ethnic violence: early-warning systems and urgent actions. Paper by Mr. Ivan Garvalov, member, CERD (English only) (HR/GVA/DR/SEM/1999/BP.2)

Racism and intolerance versus refugees in the host country. Paper by Mr. Peter Nobel, member, CERD (English only) (HR/GVA/DR/SEM/1999/BP.3)

Racism and ethnicity as an obstacle to return and reintegration. Paper by UNHCR, presented by Mr. Kallu Kalumiya, Deputy Director for International Protection (English only) (no symbol)

Los derechos humanos como instrumentos para la consolidación de los Estados multiraciales y multiétnicos. Paper by Mr. Mario Jorge Yutzis (Spanish only) (HR/GVA/DR/SEM/1999/BP.5)

Resolutions

General Assembly resolution 49/146 of 7 February 1995

Commission on Human Rights resolution 1999/78 of 28 April 1999

Commission on Human Rights resolution 1998/26 of 17 April 1998

Statements

Introductory statement by the United Nations High Commissioner for Human Rights

Joint statement on Chechnya by the United Nations High Commissioner for Human Rights, the Secretary-General of the Council of Europe and the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe

Statement by the President of the Security Council of 30 November 1999 (S/PRST/1999/34)

Joint statement by the Association for World Education and Christian Solidarity International

Submitted interventions

Intervention by the delegation of Bangladesh on Dr. Peter Nobel's presentation on "Racism and intolerance versus refugees in the host country"

Suggestions and draft recommendations

Suggestions and/or recommendations for adoption by the seminar were circulated by Professor Agbese, Mr. Garvalov, Mr. Nobel, the Association for World Education, the Commonwealth Secretariat and the Working Group on Minorities of the Sub-Commission for the Promotion and Protection of Human Rights

Other papers

Preventing genocide. Background paper submitted by Mr. Agha Shahi, Mr. Luis Valencia Rodríguez and Mr. Ivan Garvalov to the working group to review and formulate proposals for the World Conference against Racism, Racial Discrimination and Related Intolerance of the Commission on Human Rights (E/CN.4/1999/WG.1/BP.90)

The Role of Racism as a Cause of or Factor in Wars and Civil Conflict. Paper by Julie Mertus for the International Council on Human Rights Policy Consultation on Racism and Human Rights, Geneva, 1999

Structural Racism and Trends in the Global Economy. Paper by Rodolfo Stavenhagen for the International Council on Human Rights Policy Consultation on Racism and Human Rights

Joint working paper on article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination by Mr. José Bengoa, Mr. Ivan Garvalov, Mr. Mustafa Mehedi and Mrs. Shanti Sadiq Ali (E/CN.4/Sub.2/1998/4)

Challenges of Human Rights, Refugee and Migration Institutions in Post-Communist Countries in Transition (Central and Eastern Europe and Central Asia) by Luise Druke, UNHCR Research Scholar Programme, 1999-2000